



TESTIMONY OF

ERIK O. AUTOR
VICE PRESIDENT, INTERNATIONAL TRADE COUNSEL
NATIONAL RETAIL FEDERATION

**U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SMALL BUSINESS,
SUBCOMMITTEE ON RURAL DEVELOPMENT,
ENTREPRENEURSHIP AND TRADE**

***“TEXTILE IMPORT ENFORCEMENT AND
SMALL BUSINESS”***

THURSDAY, JUNE 18, 2009

Good morning, I am Erik Autor, Vice President and International Trade Counsel for the National Retail Federation. I appreciate the opportunity to testify at today's hearing on behalf of the NRF and its member companies in the U.S. retail industry.

I would like to begin my presentation on today's topic – textile import enforcement and small business – by providing some background information about NRF and the retail industry. NRF is the world's largest retail trade association, with membership comprising all retail formats and channels of distribution including department, specialty, discount, catalog, Internet, independent stores, chain restaurants, drug stores and grocery stores. NRF represents an industry with more than 1.6 million U.S. retail establishments, more than 24 million employees - about one in five American workers - and 2008 sales of \$4.6 trillion.

The current economic crisis has been the most challenging period for the U.S. retail industry in decades. Since January 2008, over 750,000 jobs have been lost in the retail sector – about one-fifth of all U.S. job losses – and a growing number of retailers have filed for bankruptcy. The impact has particularly hit small retailers – those with fewer than 5 stores. In an industry seemingly dominated by large big-box stores, small retailers, including those selling clothing, constitute over 98 percent of all retail operations in the United States.

Another important fact about retailers both large and small is imports account for the great majority of consumer goods sold in their stores. In the case of many apparel products, over 90 percent of items sold in the United States is sewn outside the United States and then imported.

This global commerce in clothing as well as textile products, such as bedding, curtains, and tablecloths, is still subject to some of the most stringent trade barriers applied to any manufactured product imported into the United States. Although the last of the textile and apparel quotas ended on January 1, imported textiles and apparel still face exceptionally high U.S. tariffs. U.S. duties on all non-preferential trade now average just under 5 percent, and about 2 percent if one includes preferential trade. However, the average U.S. tariff on non-preferential imports of textile and apparel, which covers every Asian country except Singapore, is around 16 percent, with duties on some clothing categories, like wool sweaters, in excess of 30 percent. It is worth noting that, while textiles and apparel represent only 8 percent of U.S. imports, these two sectors alone account for 43 percent of all duties collected by Customs and Border Protection.

In addition, textiles and apparel are also subject to the most onerous and restrictive rules of origin under our free trade agreements and preference programs of any manufactured product, making it extraordinarily difficult for

retailers generally – and next to impossible for small retailers in particular -- to use these programs to lower importing costs. Small retailers would need to dedicate staff to the complicated process of importing apparel or textile products – or outsource that cost to customs brokers, or pay for the effort with higher prices of goods bought from wholesalers.

It is the job of Customs and Border Protection to enforce this system to control and restrict commerce in textiles and apparel. With the problem of quota evasion no longer a significant issue, these enforcement activities now largely focus on guarding against duty evasion – such as ensuring that imports claiming duty-free treatment under our preferential trade programs and free trade agreements meet the relevant rules of origin, and that the value of imported merchandise is not being under-reported. The question for today's hearing is how well CBP is doing that job.

I think it would be incorrect to say that CBP does not take its job seriously. For example, one-third of all the import specialists at CBP are exclusively devoted to textiles and apparel and many line agents are as well. CBP also regularly sends “jump teams” to foreign countries to ferret out violations. It will also move aggressively to detain merchandise at the slightest suspicion of a problem. Despite all this activity, many in the textile industry continue to complain that CBP is not doing enough and to demand that even more resources be allocated to stop the “cheating.”

At this juncture, I want to be clear that the U.S. retail industry fully supports effective and efficient enforcement by CBP of our laws regulating trade. Retailers take their customs compliance responsibilities very seriously. This is confirmed by the fact that apparel retailers have among the highest customs compliance rates of any importing sector.

However, we are concerned that pressure from the textile industry may lead to overzealous enforcement with little control or oversight that will have several adverse consequences. First, it must be recognized that CBP will never have sufficient resources to ferret out 100 percent of violations. At a time when setting budget priorities has never been more critical for Congress and the Administration, there is a great risk that shifting ever more scarce manpower and financial resources to textile and apparel enforcement will adversely impact other critical CBP activities, such as cargo security and drug interdiction.

Therefore, to be effective, CBP must work smarter and better. In this respect, a risk-based enforcement system is the only viable solution. It allows CBP to partner with the trade in a way that supports the objective under the Customs Modernization Act of informed compliance by importers, and allows CBP to focus its attention on targeting high-risk imports, while facilitating the movement of legitimate trade.

Second, if CBP is constantly forced to leave no stone unturned, overzealous enforcement will increasingly result in harassment and disruption of shipments for the vast majority of importers, who are compliant and low risk, and thereby become a non-tariff trade barrier to legitimate trade. This is a serious problem for apparel retailers, who face the possibility of having their goods detained. Small retailers typically do not sell their own branded merchandise, and, with limited resources, are as a rule not direct importers. Rather they procure their goods through a purchasing agent or a wholesaler, who acts as the importer of record. Thus, they are dependent on these entities for ensuring that the goods comply with customs laws and regulations. If problems arise, the consequences are that goods they ordered may be seized and even forfeited through no fault of their own, but with serious adverse consequences to their business. Under these circumstances, it is imperative for retailers to know their business partners.

At a time when many retailers are struggling for to stay in business and are facing an increasingly burdensome compliance requirements on labor, environment, supply chain security, and product safety, an overly heavy hand by CBP that only disrupts legitimate textile and apparel trade while adding little to improve enforcement is unwise policy. To avoid this problem, while ensuring effective enforcement, CBP should continue to focus on a post-entry enforcement approach with the posting of bonds, remote entry filing, paperless

release of cargo, and post-entry compliance audits. Consistency in enforcement among ports is also important. In addition, we would caution against using security information collected through the so-called 10+2 initiative for purposes of commercial compliance. Such information is largely unverified, reliance on which would be inconsistent with the goal of informed compliance by importers.

Finally, the Automated Commercial Environment (ACE) is critical to ensure CBP has the tools and system to enhance the collection and dissemination of commercial information. It is an essential system not only for US security, but is key to enabling the free flow of legitimate trade. CBP faces tremendous challenges in its dual role of enhanced security and trade facilitation and cannot meet this goal without ACE.

Thank you for your attention, and I would be happy to answer any questions.